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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Appellant : Gyozo Baki Docket No.: 01-117
Serial No. : 09/744,035 Examiner : J. C. Fox
Filed : April 20, 2001 Art Unit : 3753
For : UNIVERSAL CARTRIDGE FOR A MIXER FAUCET

900 Chapel Street
Suite 1201
New Haven, CT 06510-2802

APPEAL BRIEF

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313

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Dear Sir:

This is an appeal to the Board of Patent Appeals and Interferences from the Examiner's final rejection dated February 11, 2003, finally rejecting claims 5, the only claim currently pending in the above-identified application.

REAL PARTY IN INTEREST

The real party in interest is the assignee Kerox-Multipolar II. KFT.

RELATED APPEALS AND INTERFERENCES

There are no other appeals or interferences known to Appellant or Appellant's legal representative which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

STATUS OF CLAIMS

Claim 5 is the only claim pending the application and a true copy of the claims on appeal are attached hereto in Appendix A.

STATUS OF AMENDMENTS

There are no amendments filed after the Examiner's final rejection and, accordingly, all amendments have been entered.

SUMMARY OF THE INVENTION

The present invention is drawn to a universal mixing valve battery cartridge which is used primarily for mixing warm and cold water. (See the paragraph bridging Pages 4 and 5 of the substitute specification). In accordance with the present invention, the valve battery cartridge comprises two discs arranged one above the other to form a plane sealing. The lower disc is a stationary inlet disc and the upper disc is a control

disc which is displaceable and rotatable on the inlet disc. (See Page 5 lines 1-5). The control disc is in mechanical connection with a driving arm pivoted in a lever holder through a ceramic moving element. The lever holder is rotatably arranged in a cartridge casing. The base of the cartridge casing is formed with a connection element for receiving an interchangeable insertion piece. (See Page 5, lines 6-12). The opening for receiving the interchangeable insertion piece in the connection element is formed in a direction which is substantially parallel to the longitudinal axis of the cartridge. The connection element in the base of the cartridge casing receives the interchangeable insertion piece which enables connection between connection docks in a valve battery body and inlet openings. The interchangeable insertion piece has a longitudinal axis which is substantially parallel to the longitudinal axis of the cartridge in the base and the base is provided with a seal insulating the connecting element from the inner space of the battery body. (See again Page 5 of the instant specification).

The valve battery cartridge of the present invention offers significant improvement over the prior art. Particularly, the valve battery cartridge of the present invention is universal, that is, is not task-specific and can be used to carry out

various functions in a simple and quick manner. (See Page 4 lines 7-22 of the specification).

PRIOR ART RELIED UPON BY THE EXAMINER

The sole prior art reference relied on by the Examiner is U.S. Patent 5,806,552, Martin, Jr.

REJECTIONS OF RECORD

Claim 5 stands rejected under 35 U.S.C. 102(b) as being anticipated by Martin, Jr.

ISSUE

(1) Whether Martin, Jr. discloses either expressly or under the principles of inherency, each limitation of claim 5.

GROUPING OF CLAIMS

Claim 5 is the only claim on Appeal.

ARGUMENT

It is well established under the U.S. law that under Section 102, anticipation can be found only if the prior art reference discloses, either expressly or under the principle of inherency, every limitation of the claim. RCA Corp. v. Applied Digital Data Sys., Inc., 730 F.2d1440, 1444, 221 USPQ 385, 388

(Fed. Cir.), cert. dismissed, 468 U.S. 1228 (1984). It is also well settled law that during examination, the claims are to be given their broadest reasonable interpretation consistent with the specification. In re Sneed, 710 F.2d 1544, 1548, 218 USPQ 385, 388 (Fed. Cir. 1983) (emphasis added). As noted in In re Sneed, it is proper to look for the specification in order to interpret claim terms. Functionality may not be ignored when interpreting a claimed term.

The Examiner in his final rejection directs our attention to column 3, line 22 of the Martin, Jr. patent. Apparently, the Examiner points to this portion of the Martin, Jr. reference to support his conclusion that "Martin, Jr. shows a mixing faucet where the lower part of the casing 11 is read as a connection element, adapter 50 as the insertion piece with seals 80, 37. Adapter 50 is inserted in the longitudinal direction of the cartridge." Appellant traverses the Examiner's interpretation. The '552 patent does not anticipate the arrangement of two discs (5 and 6) one above the other to form a plane sealing. The '552 patent does not suggest that the lower disc (6) be a stationary inlet disc and the upper disc (5) be a control disc which is displaceable and rotatable on the inlet disc. The '552 patent does not anticipate that the control disc (5) is in mechanical connection with a driving arm (1) pivoted in a lever holder (2) to a ceramic moving element (4). The '552 patent does not

anticipate that the lever holder (2) is rotatably arranged in a cartridge casing. The '552 patent does not anticipate an arrangement set forth above wherein a base (9) of the cartridge casing (3) is formed with a connection element (14) for receiving an insertion piece (10). The '552 patent does not anticipate an interchangeable insertion piece as claimed which is critical to the "universal" nature of the valve battery cartridge of the present invention. In essence, the '552 patent does not show each and every claimed feature of the valve battery cartridge claimed in independent claim 5.

Appellant during the prosecution of the instant application has continuously requested the Examiner to read the prior art reference on the claimed subject matter, that is, point out the corresponding element in the '552 patent for each and every element claimed in claim 5. The Examiner has not done this. Appellant cannot find in the prior art each and every element as claimed. It is submitted that the Board of Appeals will likewise not find in the prior art each and every element claimed. Accordingly, it is submitted that the Examiner's rejection under 35 U.S.C. 102 must be reversed.

CONCLUSION

For the reasons set forth above, the Board of Appeals is hereby requested to reverse the Examiner's rejection of claim 5 under 35 U.S.C. 102.

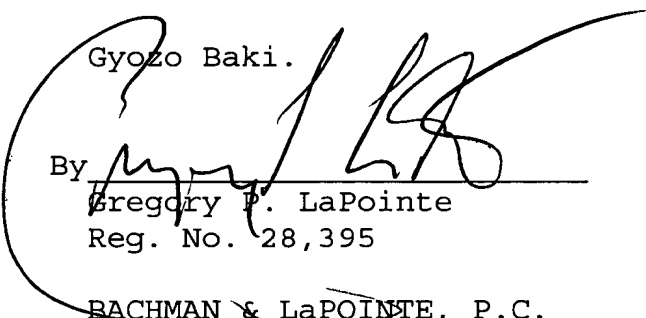
APPEAL BRIEF FEE

A check in the amount of \$600.00 is enclosed herewith to cover the cost of the Appeal Brief Fee and the cost of an Oral Hearing. Should the Commissioner determine that an additional fee is due, he is hereby authorized to charge said fee to Deposit Account No. 02-0184.

Respectfully submitted

Gyozo Baki.

By


Gregory P. LaPointe
Reg. No. 28,395

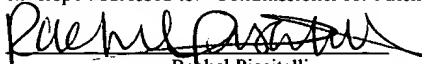
~~BACHMAN & LaPOINTE~~, P.C.
900 Chapel Street
Suite 1201
New Haven, CT 06510

Tel: 203-777-6628 ext. 111
Fax: 203-865-0297
Email: lapointeg@bachlap.com

Date: July 9, 2003

IN TRIPLICATE

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313" on July 9, 2003.


Rachel Piscitelli

Appendix A

5. Valve battery cartridge used for mixing cold water and warm water, comprises two discs (5,6) arranged one above the other to form a plane sealing together, wherein the lower disc (6) is a stationary inlet disc and the upper disc (5) is a control disc which is displaceable and rotatable on the inlet disc; where the control disc (5) is in mechanical connection with a driving arm (1) pivoted in a lever holder (2) through a ceramic moving element (4), the lever holder (2) is rotatably arranged in a cartridge casing (3), the base (9) of the cartridge casing (3) is formed with a connection element (14) for receiving an insertion piece (10), wherein an opening for receiving the insertion piece in the connection element is formed in a direction which is substantially parallel with a longitudinally axis of the cartridge, the improvement comprising the connection element (14) in the base (9) of the cartridge casing (3) receives an interchangeable insertion piece (10) which enables connection between connection ducts (13) in a valve battery body (12) and inlet openings wherein a longitudinal axis of the interchangeable insertion piece is substantially parallel to the longitudinal axis of the cartridge in the base (9) and the base (9) is provided with seal means (11) insulating the connection element from an inner space of the valve battery body (12).